

9020. Misbranding of Aspironal. U. S. * * * v. 4½ gross Bottles of * * * Aspironal. Heard by the court and a jury. Verdict for the Government. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 9987. I. S. No. 16165-r. S. No. E-1279.)

On April 1, 1919, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 4½ gross bottles of Aspironal, remaining in the original unbroken packages at Charleston, S. C., alleging that the article had been shipped by the Aspironal Laboratories, Atlanta, Ga., on or about March 6, 1919, and transported from the State of Georgia into the State of South Carolina, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Bottle) "Aspironal * * * Contains 10% Alcohol * * * La Grippe, Headaches, Neuralgia and Rheumatism * * * Prepared Only By Aspironal Laboratories Atlanta, Georgia;" (circular) "Aspironal The Liquid Cold Remedy;" (wrapper) " * * * The Liquid Cold Remedy;" (shipping boxes) " * * * The Liquid Cold Remedy."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of a solution containing sodium salicylate, cascara, a small amount of mydriatic alkaloids (probably from belladonna), and a trace of menthol.

It was alleged in substance in the libel that the article was misbranded in that the statements appearing in and upon the labels, bottles, circulars, wrappers, and boxes, as aforesaid, regarding the article and the curative and therapeutic effect thereof, were false and fraudulent, and the said statements were made by the said Aspironal Laboratories knowingly and in wanton and reckless disregard of their truth or falsity, and with intent to deceive the purchasers thereof. Misbranding was alleged for the further reason that the packages failed to bear a true and correct statement of the quantity and proportion of alcohol contained therein.

On June 22, 1920, no claimant having appeared for the property, and the case having come on to be heard *ex parte* before the court and a jury, after the submission of testimony on behalf of the Government, a verdict was returned by the jury finding the goods misbranded as alleged. Thereupon on motion of the United States attorney a default decree of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*

9021. Misbranding of Gillen's Cholera Remedy. U. S. * * * v. 120 Bottles of * * * Gillen's Cholera Remedy. Heard by the court and a jury. Verdict for the Government. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 10389. I. S. No. 16387-r. S. No. E-1465.)

On May 27, 1919, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 120 bottles of Gillen's Cholera Remedy, remaining in the original unbroken packages at Columbia, S. C., alleging that the article had been shipped by the Gillen Remedy Co., Atlanta, Ga., on or about April 23, 1919, and transported from the State of Georgia into the State of South Carolina, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: "Gillen's Cholera Remedy For Hogs & Chickens * * * Gillen Remedy Company Atlanta, Ga.;" "Gillen's Cholera Remedy For Hogs & Chickens * * * For Hogs: When afflicted with cholera, * * * As a Preventative for cholera and to remove worms and as a general tonic give two doses a week. For Fowls: When afflicted with cholera, sorehead and roup, and white diarrhea in little chicks, give * * * twice a day. * * * As a Preventative for cholera, sorehead and roup * * *."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of an aqueous solution of saponified tar oil and sodium sulphate.

It was alleged in substance in the libel that the article was misbranded in that the above-quoted statements appearing upon the packages and bottles, regarding the curative and therapeutic effects of the article, were misleading, false, and fraudulent, and the said statements were made by the Gillen Remedy Co. knowingly and in wanton disregard of their truth or falsity, and with intent to deceive purchasers thereof.

On June 21, 1920, no claimant having appeared for the property, and the case having come on to be heard ex parte before the court and a jury, after the submission of testimony on behalf of the Government, a verdict was returned by the jury finding the goods misbranded as alleged. Thereupon, on motion of the United States attorney, a default decree of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*

9022. Misbranding of Bourbon Hog Cholera Remedy. U. S. * * * v. 23 Bottles * * * and 10 Bottles * * * of Bourbon Hog Cholera Remedy. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 11379, 11380. I. S. Nos. 8331-r, 8333-r. S. Nos. C-1493, C-1494.)

On November 26 and on or about October 17, 1919, respectively, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 23 bottles and 10 bottles of Bourbon Hog Cholera Remedy, remaining unsold at Columbus and Dayton, Ohio, respectively, consigned by the Bourbon Remedy Co., Lexington, Ky., on or about August 30 and August 8, 1919, respectively, alleging that the article had been transported from the State of Kentucky into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Bottle and carton) "The Famous Blue Grass Hog Remedy Health to Hogs Bourbon Hog Cholera Remedy * * * For Cholera, Worms, Scours, Cough, Thumps;" (circular) "* * * for Cholera * * * beneficial effects, * * * to Cholera Infected Hogs; * * * For Hog Cholera * * * For Worms in Hogs * * * As a Preventive Against Disease, * * *;" (carton) "* * * cholera infected hogs * * * to effect a cure;" (folder) "* * * for Cholera, Worms, Cough, Thumps * * * a powerful internal germicide. * * * a worm destroyer * * * preventive against disease * * *;" (testimonials) "* * * cholera-infected hog * * * was entirely cured. * * * a sure worm exterminator * * *;" (leaflet) "* * * certain death to all worms and disease breeding parasites in hogs. * * * Bourbon Hog Cholera Remedy * * * possesses wonderful antidotal and purifying properties, which prevent, arrest and cure infectious diseases among swine, simply by destroying the organisms that produce these ailments."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of an aqueous solution containing copper, magnesium and ferrous sulphates, free sulphuric acid, and aloes, flavored with oil of sassafras and colored with a red coal-tar color.

Misbranding of the article was alleged in substance in the libels for the reason that the label bore the above-quoted statements regarding the curative or therapeutic effect of the article, which statements were false and fraudulent in that the article contained no ingredient nor combination of ingredients capable of producing the effects claimed, and in that the article was insufficient of itself for the successful treat-